

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS  
CIVIL DIVISION

**STATE OF ARKANSAS, *ex rel.* LESLIE  
RUTLEDGE, ATTORNEY GENERAL,**

**Plaintiff,**

**vs.**

**FAMILY DOLLAR STORES, INC.; DOLLAR  
TREE, INC.; FAMILY DOLLAR SERVICES,  
LLC; and FAMILY DOLLAR STORES OF  
ARKANSAS, LLC**

**Defendants**

**Case No.**

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**COMPLAINT**

The State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General (the “State” or “Plaintiff”), brings this action against Family Dollar Stores, Inc.; Dollar Tree, Inc.; Family Dollar Services, LLC; and Family Dollar Stores of Arkansas, LLC (collectively “Family Dollar” or “Defendants”) for its reckless, willful, intentional, deceptive, and unconscionable practices of marketing, distributing, and selling to Arkansas consumers products which were potentially hazardous, adulterated, or contaminated due to exposure to a long-lasting and massive rodent infestation and other unsanitary conditions at its West Memphis, Arkansas distribution center.

## INTRODUCTION

1. Dollar Tree, Inc. is the parent company and owner of Family Dollar Stores, Inc. and its wholly-owned subsidiaries. Dollar Tree is a Fortune 500 company and a leading operator of discount variety stores in North America, including those stores under the Family Dollar trade name. Family Dollar operates approximately 8,000 retail locations and 11 distribution centers.

2. Family Dollar is a “value store” that sells groceries, medicine, medical devices, dietary supplements, cosmetics, and many other household goods. Thousands of Arkansas consumers depend upon Family Dollar for their daily needs. It promises its customers that it is “[t]he best small-format value and convenience retailer, serving the needs of [its] shoppers in the neighborhoods [it] serves.”<sup>1</sup> Many stores are located in rural areas, usually in small towns, often within walking distance or a very short drive from consumers’ homes.

3. Family Dollar operates the Family Dollar Distribution Center, which is located at 1800 Family Dollar Parkway in West Memphis, Arkansas (the “West Memphis Distribution Center”). The West Memphis Distribution Center distributes products to Family Dollar stores in six states, including 85 stores in Arkansas.

4. The Arkansas Department of Health (“ADH”) inspected the West Memphis Distribution Center multiple times in 2021. *See* Food Inspection Reports, attached hereto at **Exhibit A**. During an on-site inspection on March 3, 2021, ADH inspectors reported seeing significant rodent activity where human food and pet food

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<sup>1</sup> Family Dollar, *About Family Dollar*, available at <https://www.familydollar.com/about-us> (last visited Apr. 27, 2022).

were stored. *Id.* at 1-2. The inspectors noted that members of Family Dollar management stated that they were aware of the rodent issues. *Id.* On April 2, 2021, ADH inspectors reported that effective measures were not being taken to stop the rodent infestation. *Id.* at 5-6.

5. In early January 2022, after receiving notice of the issue from ADH in October 2021, as well as multiple consumer complaints, the U.S. Food and Drug Administration (“FDA”) began an investigation of the West Memphis Distribution Center.

6. On March 18, 2022, after its investigation, the FDA issued a Safety Alert regarding the West Memphis Distribution Center, which stated in part that:

Conditions observed during the inspection included **live rodents, dead rodents in various states of decay, rodent feces and urine, evidence of gnawing, nesting and rodent odors throughout the facility, dead birds and bird droppings**, and products stored in conditions that did not protect against contamination. **More than 1,100 dead rodents were recovered from the facility following a fumigation at the facility in January 2022.** Additionally, a review of the company’s internal records also indicated the collection of more than 2,300 rodents between Mar. 29 and Sep. 17, 2021, **demonstrating a history of infestation.**

(emphasis added.) See FDA Safety Alert, attached hereto as **Exhibit B**.

7. Because of the massive rodent infestation, other unsanitary conditions, and related health hazards, the FDA advised<sup>2</sup> consumers not to use and to discard numerous potentially hazardous or contaminated products that were sold at Family

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<sup>2</sup> U.S. Food & Drug Administration, *FDA Alerts the Public to Potentially Contaminated Products from Family Dollar Stores in Six States*, available at <https://www.fda.gov/news-events/press-announcements/fda-alerts-public-potentially-contaminated-products-family-dollar-stores-six-states> (last visited Apr. 27, 2022).

Dollar stores in six states, including 85 Arkansas stores, from January 1, 2021, through the date of the Safety Alert. This was necessary because rodents, including rats and mice, can pass a plethora of diseases on to humans. Those diseases include Salmonellosis, an infection caused by Salmonella bacteria, which is usually spread to humans from animal feces and is especially dangerous to infants, children, pregnant women, elderly, and immunocompromised people. *Id.*

8. The potentially harmful products included: (a) human foods (dietary, herbal and mineral supplements, and vitamins); (b) animal foods; (c) cosmetics (skincare products, baby oils, lipsticks, shampoos, and baby wipes); (d) medical devices (feminine hygiene products, surgical masks, contact lens cleaning solutions, bandages, and nasal care products); and (e) over-the-counter medications (pain medications, eye drops, dental products, antacids, and other medications for both children and adults). *Id.*

9. On February 18, 2022, Family Dollar issued a voluntary recall<sup>3</sup> and temporarily closed 404 stores, including 85 Arkansas stores, so that recalled products could be removed from the shelves. *See* Recall Notice, attached hereto as **Exhibit C**.

10. During this time, Family Dollar made significant profits, while knowingly exposing Arkansas consumers to potentially hazardous or contaminated products by allowing and failing to prevent long-lasting and massive rodent infestations and other unsanitary conditions at its West Memphis Distribution

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<sup>3</sup> U.S. Food & Drug Administration, *Family Dollar Stores Issues Voluntary Recall of Certain FDA-Regulated Products in Six States Including Drugs, Devices, Cosmetics, Food*, available at <https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/family-dollar-stores-issues-voluntary-recall-certain-fda-regulated-products-six-states-including> (last visited Apr. 27, 2022).

Center. Likewise, many Family Dollar stores throughout the country have been forced to close due to rodent infestations in the recent past. Together, these facts demonstrate a much larger and troubling pattern of willful and intentional neglect and deceptive and unconscionable business practices by Family Dollar that compromise the health, safety, and well-being of Arkansas consumers.<sup>4</sup>

11. The State now seeks actual and punitive damages, disgorgement, restitution, civil penalties, and injunctive relief against Family Dollar to protect the health, safety, and economic well-being of Arkansas consumers who purchased or used the potentially hazardous or contaminated products sold by Family Dollar.

## **PARTIES**

### **A. Plaintiff**

12. The STATE OF ARKANSAS is the sole plaintiff in this action, brought in its name on relation of Attorney General Leslie Rutledge. The Attorney General is the chief legal officer of the State and, pursuant to Ark. Code Ann. § 4-88-104, § 4-88-105, and § 4-88-113, represents and protects the state, its subdivisions, the legitimate business community, and the general public as consumers and has the authority to bring actions for civil enforcement of the Arkansas Deceptive Trade Practice Act (the “ADTPA”). The State also brings this case in a *parens patriae* capacity to protect the marketplace in Arkansas and the safety, health, and economic well-being of its citizens. *See Alfred L. Snapp & Son, Inc. v. Puerto Rico, ex rel. Barez*, 458 U.S. 592,

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<sup>4</sup> Nathaniel Meyersohn, *400 Family Dollar stores closed after a rat infestation. It's part of a troubling pattern*, CNN Business, Mar. 4, 2022, available at <https://www.wbaltv.com/article/rat-infestation-family-dollar-stores-closed/39331565> (last visited Apr. 27, 2022).

102 S.Ct. 3260 (1982); *Lynch v. Nat'l Prescription Adm'rs, Inc.*, 787 F.3d. 868, 872 (8th Cir. 2015) (“*Parens patriae* is a common-law standing doctrine that permits the state to commence an action to protect a public interest, like the safety, health or welfare of its citizens.”) (citation omitted). No state agencies, which are independent legal entities, are parties in this case. See *Taylor v. Zanone Properties*, 342 Ark. 465, 473-74 (2000). The State brings this action under, *inter alia*, provisions of the ADTPA, Ark. Code Ann. §§ 4-88-101, *et seq.*, the common law of the State of Arkansas, and the common law and statutory authority of the Attorney General to represent the State.

## **B. Defendants**

13. FAMILY DOLLAR STORES, INC. (“Family Dollar Stores”) is a Delaware corporation and wholly-owned subsidiary of Dollar Tree, Inc., with its headquarters and principal place of business located at 10401 Monroe Road, Matthews, North Carolina 28105. Family Dollar Stores, through its enterprise design, executives and officers, and policies and procedures, controlled its distribution center, numerous retail locations, and subsidiaries that conduct business throughout the State of Arkansas. At all times relevant to this Complaint, Family Dollar Stores directed and controlled the marketing, distribution, and sale of products at its stores in Arkansas. Family Dollar Stores is responsible for the design, implementation, and execution of the marketing, distribution, and selling practices at its West Memphis Distribution Center and its retail locations. Family Dollar operates as a single, unified business enterprise, and Family Dollar Stores exerts day-to-day operational control from the top down by designing, implementing, monitoring, and enforcing

uniform policies and procedures that govern how the West Memphis Distribution Center and its retail locations operate, including the operations which are the subject of this Complaint.

14. DOLLAR TREE, INC. (“Dollar Tree”) is a Virginia corporation and publicly traded company, with its headquarters and principal place of business located at 500 Volvo Parkway, Chesapeake, Virginia 23320. Dollar Tree is the owner of Family Dollar Stores and all of its subsidiaries and affiliated entities. Dollar Tree, through Family Dollar Stores and its subsidiaries or affiliated entities, conducts business throughout the State of Arkansas. At all times relevant to this Complaint, Dollar Tree, through Family Dollar Stores, directed and controlled the marketing, distribution, and sale of products at its stores in Arkansas. Dollar Tree directed and controlled Family Dollar Stores with respect to the design, implementation, and execution of the marketing, distribution, and selling practices at its West Memphis Distribution Center and its retail locations. Family Dollar operates as a single, unified business enterprise, and Dollar Tree, through Family Dollar Stores, exerts day-to-day operational control from the top down by designing, implementing, monitoring, and enforcing uniform policies and procedures that govern the operations of its retail locations and distribution centers, including the West Memphis Distribution Center and the operations which are the subject of this Complaint.

15. FAMILY DOLLAR SERVICES, LLC is a North Carolina limited liability company, with its principal place of business located at 500 Volvo Parkway, Chesapeake, Virginia 23320. It is licensed to do business in Arkansas and can be

served via its registered agent, Corporation Service Company, 300 Spring Building, Suite 900, 300 S. Spring Street, Little Rock, Arkansas 72201. Family Dollar Services, LLC, along with its co-defendants, is responsible for the implementation and execution of the policies and procedures promulgated and adopted by Dollar Tree and Family Dollar Stores for the operation of the West Memphis Distribution Center.

16. FAMILY DOLLAR STORES OF ARKANSAS, LLC is a Virginia limited liability company, with its principal place of business located at 500 Volvo Parkway, Chesapeake, Virginia 23320. It is licensed to do business in Arkansas and can be served via its registered agent, Corporation Service Company, 300 Spring Building, Suite 900, 300 S. Spring Street, Little Rock, Arkansas 72201. At all times relevant to this Complaint, Family Dollar Stores of Arkansas, LLC sold and continues to sell products from its retail locations throughout Arkansas. Family Dollar Stores of Arkansas, LLC, along with its co-defendants, is responsible for the design, implementation, and execution of the policies and procedures which Dollar Tree and Family Dollar Stores promulgated and adopted for operation of its retail locations throughout Arkansas.

### **JURISDICTION AND VENUE**

17. This Court has subject matter jurisdiction over this action pursuant to Ark. Code Ann. § 16-13-201, as Plaintiff seeks legal and equitable relief, the amount in controversy exceeds the jurisdictional minimum, and this action brings claims arising under the laws of the State of Arkansas that are not otherwise assigned pursuant to the Arkansas Constitution. The instant Complaint does not confer



diversity jurisdiction upon the federal courts pursuant to 28 U.S.C. § 1332 because the State is not a citizen for purposes of diversity jurisdiction. Likewise, federal question subject matter jurisdiction pursuant to 28 U.S.C. § 1331 is not invoked because the allegations are wholly state law claims. Nowhere does the State plead, expressly or implicitly, any cause of action or request any remedy that arises under or is founded upon federal law. The issues presented in the allegations of this Complaint do not implicate significant or substantial federal issues and do not turn on the necessary interpretation of any federal law. The State expressly avers that the only causes of action claimed, and the only remedies sought herein, are founded upon the statutory, common, and decisional laws of the State of Arkansas.

18. This Court has personal jurisdiction over Defendants under Arkansas's long-arm statute, Ark. Code Ann. § 16-4-101, as they conduct business in Arkansas, have purposefully directed their actions at Arkansas and its citizens, or have the requisite minimum contacts with Arkansas necessary to permit this Court to exercise jurisdiction. Through the conduct described herein, Defendants are deemed to be doing business in Arkansas as they: (a) transacted or admitted to transacting business within Arkansas and (b) maintained substantial contacts in Arkansas. Defendants operate in Arkansas, and because Defendants advertise, market, and sell products in Arkansas; accept money from purchasers located in Arkansas; engage in systematic and continuous business activities in Arkansas; and transact substantial business with Arkansas entities and citizens, Defendants generally have sufficient minimum contacts in Arkansas to satisfy Ark. Code Ann. § 16-4-101.

19. Defendants' numerous contacts with Arkansas are sufficient for them to reasonably anticipate being haled into court in Arkansas. *See Daimler AG v. Bauman*, 134 S. Ct. 746, 754 (2014). Defendants, separately and as a single, unified business enterprise have contacts in Arkansas that are so continuous and systematic as to render it essentially at home in Arkansas, including but not limited to: (a) continuing since 1994, when its West Memphis Distribution Center was opened, annually importing into and exporting from the State of Arkansas millions of dollars of products through that distribution center; (b) creating and continuing to create a marketing strategy specific to Arkansas, its retail locations, and consumers; (c) maintaining retail stores, offices, and an 850,000 square foot distribution center in Arkansas; (d) employing hundreds of Arkansas citizens; (e) owning real property within Arkansas, including the West Memphis Distribution Center; and (f) maintaining banking and other financial accounts in Arkansas.

20. The actions of Defendants, separately and as a single, unified business enterprise, which are alleged herein have occurred in Arkansas and give rise to this suit. The underlying controversy occurred in Arkansas. The substantial acts, conduct, and omissions complained of herein occurred or accrued in Arkansas; the damages sustained, occurred, or accrued in Arkansas; and the potentially hazardous, adulterated, or contaminated products were purchased, used, ingested, or handled in Arkansas. The actions alleged herein have had the foreseeable intended effect of causing injury to persons residing in, located in, or doing business in Arkansas. All of the at-issue transactions occurred in Arkansas or involved Arkansas consumers.

21. Venue is proper in Pulaski County, Arkansas pursuant to Ark. Code Ann. § 16-106-102(a), as substantial acts, conduct, and omissions complained of herein occurred or accrued in Pulaski County, and damages sustained, occurred, or accrued in Pulaski County. Moreover, Arkansas consumers in Pulaski County purchased, used, ingested, or handled the potentially hazardous or contaminated products at issue.

### **FACTUAL ALLEGATIONS**

22. ADH inspected the West Memphis Distribution Center multiple times in 2021. See Food Inspection Reports, attached hereto at **Exhibit A**. During an on-site inspection on March 3, 2021, ADH inspectors reported seeing significant rodent activity where human food and pet food were stored and noted that Family Dollar management stated that they were aware of the rodent issues. *Id.* at 1-2. On April 2, 2021, ADH inspectors reported that effective measures were not being taken to stop the rodent infestation. *Id.* at 5-6.

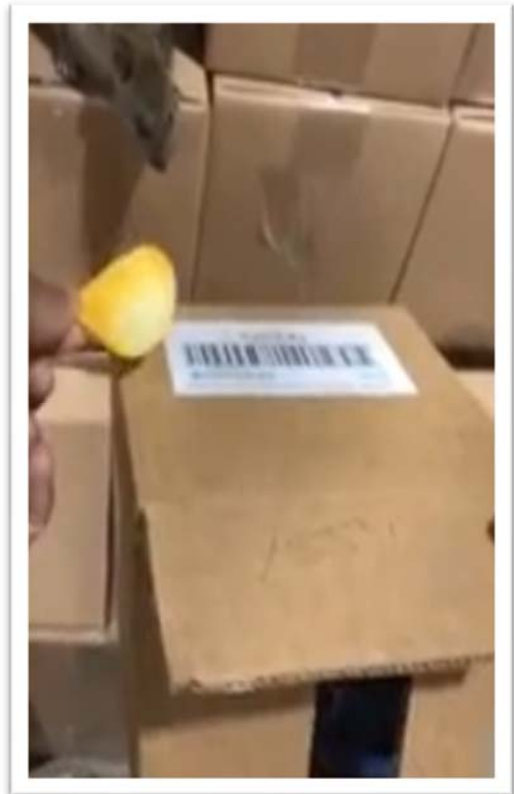
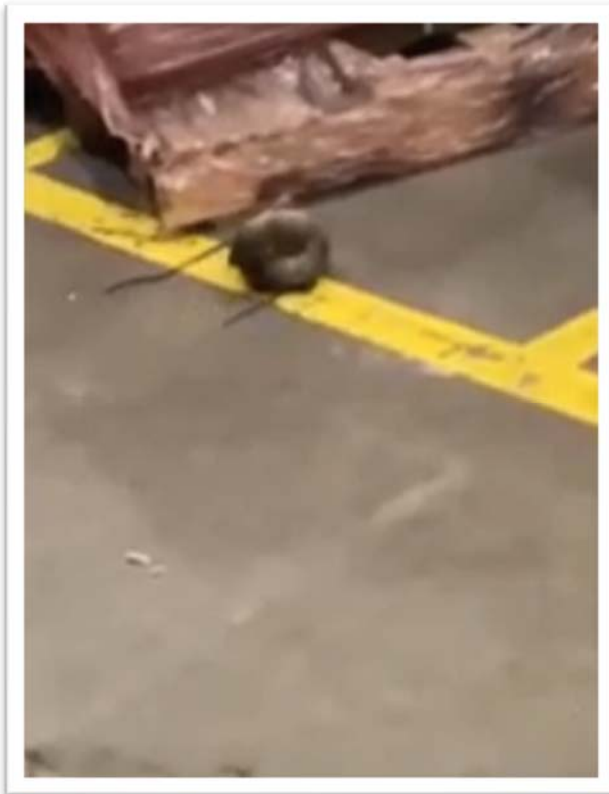
23. In early January 2022, Robert Bradford, then a Family Dollar employee at the West Memphis Distribution Center, posted to his Facebook page<sup>5</sup> videos and photographs of numerous rats inside the distribution center. Memphis news station WREG aired some of the content sent to the station by Mr. Bradford. Mr. Bradford claimed that Family Dollar terminated his employment after he posted online a video of himself trying to feed a rat. He stated that the rats were everywhere inside the warehouse, “There are sixty-one aisles in the warehouse; you are going to see them

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<sup>5</sup> Robert Bradford, Facebook, <https://www.facebook.com>, date, time, and specific URL unknown.

from one to sixty-one. They are running around. They are on the floor, and they are in boxes.”<sup>6</sup>

24. The photographs below were captured from Mr. Bradford’s video and were featured on WREG’s January 4, 2022, news broadcast.



### **FDA Investigation**

25. In early January 2022, the FDA began an investigation of the West Memphis Distribution Center.

26. On January 11, 2022, the FDA’s inspection team arrived on-site at the West Memphis Distribution Center. Within days of the FDA’s arrival, Family Dollar ceased distribution of all products from the West Memphis Distribution Center. Over

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<sup>6</sup> Melissa Moon, *Another complaint about rats at Family Dollar facilities*, WREG Memphis, Jan. 4, 2022, available at <https://wreg.com/news/local/another-complaint-about-rats-at-family-dollar-facilities/> (last visited Apr. 27, 2022).

the next month, the FDA inspected the distribution center on 15 different occasions.

27. On February 11, 2022, the FDA completed its investigation and issued a 21-page report revealing in considerable detail the sickening scenes from inside the rodent-infested West Memphis Distribution Center.<sup>7</sup> *See* Inspection Report, attached hereto as **Exhibit D**.

28. The Inspection Report included 12 formal Inspectional Observations regarding the West Memphis Distribution Center, as follows:

- “You did not exclude pests from your food plant to protect against contamination of food.” *Id.* at 1.
- “You did not maintain your plant in a clean and sanitary condition and keep your plant in repair.” *Id.* at 7.
- “You did not keep the grounds around your plant in a condition that would protect against the contamination of food.” *Id.* at 8.
- “You did not hold animal food for distribution under conditions that protect against contamination and minimize deterioration.” *Id.* at 9.
- “You did not take effective measures to exclude pests from your plant and protect against contamination of animal food by pests.” *Id.* at 10.
- “The responsibilities and procedures applicable to the quality control unit are not in writing and fully followed.” *Id.* at 12.
- “Buildings used in the manufacture, processing, packing, or holding of drug products are not maintained in a clean and sanitary condition and free of infestation by rodents, birds[,] insects, and other vermin.” *Id.* at 14.
- “Buildings used in the holding of a drug product are not maintained in a good state of repair.” *Id.* at 16.

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<sup>7</sup> Department of Health and Human Services, FDA, *Inspection Report*, <https://www.fda.gov/media/156334/download> (last visited Apr. 27, 2022).

- “Equipment used in the manufacture, processing, packing, or holding of drug products is not of appropriate design to facilitate operations for its cleaning and maintenance.” *Id.* at 18.
- “Written procedures are not established for the cleaning and maintenance of equipment, including utensils, used in the manufacture, processing, packing, or holding of a drug product.” *Id.* at 19.
- “Drug products are not stored under appropriate conditions of temperature and humidity so that their identity, strength, quality, and purity are not affected.” *Id.*
- “Distribution records do not contain the lot or control number of drug product.” *Id.* at 20.

29. While the full Inspection Report lists countless examples of health hazards and failures to protect products from contamination, below are examples of the FDA inspectors’ observations:

- “Four rat carcasses on the conveyer belt . . . .” *Id.* at 2.
- “TNTC [“too numerous to count”] REPs [“rodent excreta pellets”] and a mouse carcass on a pallet containing 8-count cases of Hungry Jack Cheesy Scalloped Potatoes . . .” *Id.* at 3.
- “Significant gnawings, TNTC REPs , and a strong odor of rodent urine and excreta on a pallet containing cases of mixed nuts . . . . Multiple bags of product were gnawed open and product was spilling out of cases onto lower levels of the pallet.” *Id.*
- “TNTC REPs on the equipment and floors of the area . . . called the ‘junk yard,’ which contains maintenance equipment.” *Id.*
- “Approximately 15 REPs on a pallet of flour . . . . Eleven of the cases stored on the pallet contained product with gnawings. While unstacking the pallet, two mice exited from gnawed-open product bags stacked on the bottom layer of the pallet . . . .” *Id.* at 3-4.
- “Approximately 30 REPs in and around a pallet containing cardboard cases with twelve 5.6-ounce pouches each of Knorr Chicken Flavor Rice & Pasta Blend . . . . This pallet also had

nesting material and tunnelling . . . . Approximately 20 of the cases on the pallet contained significant rodent gnawings.” *Id.* at 4.

- “Multiple (no less than 5) rats climbing up rack scaffolding and through a pallet containing potato chips stored in cardboard cases . . . . This area of the aisle also had a strong odor of rodent excreta and urine.” *Id.* at 5.
- “TNTC REPs on a pallet containing 24-count packages of Jell-O brand Instant Chocolate Jello . . . .” *Id.*
- “TNTC REPs on a pallet of cases containing twelve 3.53-ounce cans each [of] Beach Cliff Red Herring Fillets . . .” *Id.* at 6.
- “One case on this pallet [containing eight 6.5-ounce bags each [of] Brims Butter Popcorn] had an open bag of popcorn, approximately 10 RFPs, and fluorescing stains on the inside of the case.” *Id.*
- “TNTC REPs on and in between the layers of a pallet containing cases of 7-ounce tubs each [of] Italion Pistachio & Vanilla Duo Spread . . . . The pallet also contained significant nesting material[,] four individual product containers contained gnaw holes[, and] The area surrounding this rack location had a strong odor of rodent urine and excreta.” *Id.*
- “Rodent excreta pellets were observed on the case boxes and pallet containing . . . GoodSense brand Omeprazole Delayed Release Tablets 20mg . . .” *Id.*
- “Rodent excreta pellets were observed on several cases . . . of Listerine Total Care Freshmint Anticavity Fluoride Mouthwash . . .” *Id.* at 15.

30. The Inspection Report also stated that:

**[Family Dollar] was aware of an increased presence of rodents in the Distribution Center (DC) since at least January 2020.** Per your General Manager, on October 26, 2021, when a fire drill was conducted, dozens of rats could be seen running around the facility due to the loud and sustained sound of the fire alarm. At some time during October 2021, [Family Dollar] stopped using the breakroom and Inventory Control Center (ICC) room located West of Dock Door on the

North side of the building due to the significant foul stench/odor of rodents in the facility.

[Family Dollar] lacks a system for receiving and tracking reports from your stores of potentially contaminated product received from the Distribution Center (DC). However, [Family Dollar] was able to provide some emails dated January 8, 10, 12, and 13, 2022 containing reports from various stores serviced by your Distribution Center of product that was received with rodent excreta pellets and/or that was gnawed/chewed, **a report of a “live large rat” found in a box received, and a report of a large rat jumping out of a pallet received from the Distribution Center.**

*Id.* at 13 (emphasis added).

31. Finally, the Inspection Report revealed that:

[Family Dollar] **continued to ship products**, including drug products, to stores up until January 13, 2022, **when fumigation of the facility occurred.**

[Family Dollar] **did not remove drug[] products from your facility prior to fumigation** as outlined in the Applicator Manual for the gas fumigant used.

Examples of drug products distributed by your facility include over-the-counter (OTC) products such as various Ibuprofen products, Infant and Children’s Tylenol, Extra Strength Tylenol Rapid Release Gels, Omeprazole products, hand sanitizer, cough, cold and flu products, and antihistamines.

*Id.* (emphasis added).

### **FDA Safety Alert**

32. On February 18, 2022, the FDA issued a safety information news release titled, “*FDA Alerts the Public to Potentially Contaminated Products from Family Dollar Stores in Six States.*” See FDA Safety Alert, attached hereto as **Exhibit B.**

33. The FDA Safety Alert described the West Memphis Distribution Center as follows:



Conditions observed during the inspection included **live rodents, dead rodents in various states of decay, rodent feces and urine, evidence of gnawing, nesting and rodent odors throughout the facility, dead birds and bird droppings, and products stored in conditions that did not protect against contamination.** More than **1,100 dead rodents** were recovered from the facility following a fumigation at the facility in January 2022. Additionally, a review of the company's internal records also indicated the collection of more than **2,300 rodents** between Mar. 29 [2021] and Sep. 17, 2021, **demonstrating a history of infestation.**

*Id.* (emphasis added).

34. The FDA Safety Alert warned the public that because of the rodent infestation and other unsanitary conditions at the West Memphis Distribution Center, numerous categories of products purchased by consumers from Family Dollar were unsafe for consumers to use or handle and should be discarded. *Id.*

35. These affected products included, but were not limited to: (a) human foods (dietary, herbal and mineral supplements, and vitamins); (b) animal foods; (c) cosmetics (skincare products, baby oils, lipsticks, shampoos, and baby wipes); (d) medical devices (feminine hygiene products, surgical masks, contact lens cleaning solutions, bandages, and nasal care products); and (e) over-the-counter medications (pain medications, eye drops, dental products, antacids, and other medications for both children and adults). *Id.* (emphasis added).

36. The FDA Safety Alert warned that anyone who purchased a contaminated product and experienced health concerns should contact a health care professional immediately. *Id.* For individuals who still had contaminated products in their homes, the FDA advised that these products should be discarded:

Consumers are advised not to use and to contact the company regarding

impacted products. The agency is also advising that all drugs, medical devices, cosmetics and dietary supplements, regardless of packaging, be discarded. Food in non-permeable packaging (such as undamaged glass or all-metal cans) may be suitable for use if thoroughly cleaned and sanitized. Consumers should wash their hands immediately after handling any products from the affected Family Dollar Stores.

*Id.* (emphasis added).

37. Associate Commissioner for Regulatory Affairs, Judith McMeekin, Pharm.D., stated in the Safety Alert that: “Families rely on stores like Family Dollar for products such as food and medicine. They deserve products that are safe. [...] No one should be subjected to products stored in the kind of unacceptable conditions that we found in this Family Dollar distribution facility. These conditions appear to be violations of federal law that could put families’ health at risk.” *Id.*

38. The conditions at the West Memphis Distribution Center were such that Family Dollar, with the FDA’s knowledge, issued a voluntary retail-level recall (discussed below) of all products in the categories listed in the FDA Safety Alert, regardless of whether the product packaging showed signs of contact with rodents, birds, or their excrement or the packaging itself actually came into contact with the rodents, birds, or their excrement.

39. Furthermore, all products purchased at Family Dollar (or purchased from non-Family Dollar stores) that came into contact with the contaminated products could have caused those uncontaminated products to become contaminated with Salmonella bacteria. Since it was impossible to determine which products were contaminated, Arkansas consumers were forced to dispose of all products that possibly came into contact with the potentially hazardous or contaminated products.

## Family Dollar Recall

40. After the FDA Safety Alert was issued, Family Dollar issued its own voluntary recall.<sup>8</sup> See Recall Notice, attached hereto as **Exhibit C**.

41. Family Dollar's Recall Notice advised consumers that "due to the presence of rodents and rodent activity at Family Dollar Distribution Center" that certain products "stored and shipped to 404 stores from Family Dollar Distribution Center . . . from January 1, 2021 through the present" were being recalled. These products "include all: (i) drugs; (ii) medical devices; (iii) cosmetics; (iv) dietary supplements; and (v) human and animal (pet) food products." *Id.*

According to Family Dollar's Recall Notice:

There are numerous hazards associated with rodents including the potential presence of Salmonella. **Use or consumption of affected products may present risk of illness due to the potential presence of Salmonella, an organism which can cause serious and sometimes fatal infections in infants, young children, frail or elderly people, pregnant persons, persons with pre-existent pathology (e.g., patients with cancer undergoing chemotherapy treatments, organ transplant recipient, etc.) and others with weakened immune systems.** Healthy persons infected with Salmonella often experience fever, diarrhea (which may be bloody), nausea, vomiting, and abdominal pain. In rare circumstances, infection with Salmonella can result in the organism getting into the bloodstream and producing more severe illnesses such as arterial infections (i.e., infected aneurysms), endocarditis, and arthritis.

*Id.* (emphasis added).

42. In addition to its voluntary recall, Family Dollar closed 404 stores that

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<sup>8</sup> Press Release, *Family Dollar Stores Issues Voluntary Recall of Certain FDA-Regulated Products in Six States Including Drugs, Devices, Cosmetics, Food*, Business Wire, Feb. 18, 2022, available at <https://www.businesswire.com/news/home/20220218005563/en/Family-Dollar-Stores-Issues-Voluntary-Recall-of-Certain-FDA-Regulated-Products-in-Six-States-Including-Drugs-Devices-Cosmetics-Foods>.

received potentially hazardous or contaminated products from the West Memphis Distribution Center, including 85 Arkansas stores.<sup>9</sup> Family Dollar then removed approximately \$34 million worth of potentially hazardous or contaminated products from its stores.<sup>10</sup>

### **Federal Grand Jury Subpoena**

43. On March 15, 2022, Family Dollar disclosed that prosecutors in the Eastern District of Arkansas had issued a federal grand jury subpoena on March 1, 2022, requesting information, documents, and records pertaining to pests, sanitation, and its compliance with law regarding certain of Family Dollar's procedures and products.<sup>11</sup>

### **FAMILY DOLLAR DECEIVED ARKANSAS CONSUMERS**

44. Family Dollar is responsible for the safe and proper storage of all products in its distribution center and the safety and quality of those products sold in its stores. Family Dollar exerts day-to-day operational control from the top down, with its national corporate entity designing and implementing uniform policies and procedures (to the extent they exist and are followed) that govern how the West Memphis Distribution Center and its stores operate, including the conduct at issue herein. Family Dollar's method of control intentionally allowed and resulted in the

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<sup>9</sup> Vimal Patel, *Rodent Infestation at Family Dollar Warehouse Leads to Hundreds of Closures*, NY Times, Feb. 19, 2022, available at <https://www.nytimes.com/2022/02/19/us/fda-family-dollar-recall.html>.

<sup>10</sup> Family Dollar, *Dollar Tree, Inc. Reports Results for the Fourth Quarter & Fiscal Year 2021*, Mar. 2, 2022, available at <https://www.dollartreeinfo.com/news-releases/news-release-details/dollar-tree-inc-reports-results-fourth-quarter-and-fiscal-year-5>.

<sup>11</sup> Praveen Paramasivam, *Dollar Tree Discloses Federal Grand Jury Subpoena Over Pest Issue*, Reuters, Mar. 16, 2022, available at <https://www.nytimes.com/2022/02/19/us/fda-family-dollar-recall.html> (last visited Apr. 27, 2022).

massive and long-lasting rodent infestation at the West Memphis Distribution Center and the selling of millions of dollars' worth of potentially hazardous and contaminated products to Arkansas consumers.

45. Arkansas consumers depend upon representations by Family Dollar concerning the safety and quality of its products. The pervasive and extensive rodent infestation and other unsanitary conditions at the West Memphis Distribution Center were not disclosed to Arkansas consumers prior to the FDA's announcement, despite the significant health and safety threats to consumers.

46. Arkansas consumers paid millions of dollars to Family Dollar for products impacted by its rodent infestation, and because of the multitude of health hazards and dangers associated with these products, the commercial value of these products was stripped when consumers were forced to discard their purchases.

47. Family Dollar had actual knowledge of the massive and long-lasting rodent infestation since at least January 2020. Family Dollar knew or should have known of the rodent infestation and other unsanitary conditions far earlier than that date, however, due to its obligation to inspect its facilities for safety, quality control, and health-related issues. Nevertheless, Family Dollar chose not to disclose this information to Arkansas consumers but continued to profit from the sales of its goods.

48. Family Dollar omitted information about the extraordinary rodent infestation and resultant product contamination from all advertising, promotions, or other contacts with Arkansas consumers prior to the consumers' purchase of the potentially hazardous or contaminated products and continued to ship these products

to its Arkansas stores from the West Memphis Distribution Center. By knowingly failing to disclose this information or correct the problems and associated risks of contamination, Arkansas consumers purchased products of a lesser standard, grade, and quality that failed to meet ordinary and reasonable consumer expectations regarding quality and value of products. These products were unfit for their intended purposes.

49. Arkansas consumers purchased and continued to handle or use the potentially hazardous or contaminated products and were unaware that the products they purchased could be dangerous, and soon to become worthless once the FDA instructed buyers to discard them due to the false and misleading claims and omissions by Family Dollar. Arkansas consumers were unaware that the products contained Salmonella bacteria, or had a considerable risk of containing Salmonella bacteria, or other infectious diseases. Arkansas consumers would not have purchased the potentially hazardous or contaminated products if Family Dollar had fully and accurately disclosed the rodent infestation and the related potential for contamination with Salmonella bacteria or other infectious diseases.

50. Arkansas consumers relied on Family Dollar's marketing, which it disseminated throughout the state, through advertising, packaging, and labeling that omitted any mention of its rat infestation and contaminated or potentially contaminated goods.

#### **THE STATE'S INTEREST IN PROTECTING CONSUMERS**

51. Attorney General Leslie Rutledge brings this action on behalf of the

State and its citizens in her proprietary capacity and in her *parens patriae* capacity against Family Dollar for its deceptive and unconscionable trade practices in violation of the ADTPA, as well as on the grounds of negligence, gross negligence, strict liability, unjust enrichment, and civil conspiracy.

52. This action seeks actual and punitive damages, disgorgement, restitution, civil penalties, and injunctive relief to address and abate the harm caused by the extraordinary rodent infestation and potentially hazardous or contaminated products sold to Arkansas consumers. The State has an interest in protecting the health, safety, and economic well-being of Arkansas and its citizens who rely on Family Dollar for food, drugs, medical devices, dietary supplements, and other products. Arkansas consumers have been damaged, and continue to be damaged, by Family Dollar's unlawful conduct.

53. The State is a real party in interest in this action. Acting as a constitutional officer of the State, possessing all the power and authority under the Arkansas Constitution, common law, and statutes, the Attorney General institutes this action to protect the health, safety, and economic well-being of the State's citizens, its own interests, and the integrity of its marketplace. The Attorney General is authorized to bring this action on behalf of the State as its chief legal officer, pursuant to the ADTPA, under *parens patriae*, and as representative of its citizens to recover actual and punitive damages, disgorgement, restitution, and civil penalties, and to secure injunctive relief regarding violations of state laws.

54. The State brings this action exclusively under Arkansas law and relies

exclusively on state statutory and common law theories for each of its claims, and not pursuant to any federal law. To the extent any claim or factual assertion herein may be construed as stating a federal claim, the State disavows that alleged claim. The claims asserted are brought solely by the State and are independent of any claims that individual citizens may have against Defendants.

## **CLAIMS FOR RELIEF**

### **COUNT I VIOLATIONS OF THE ARKANSAS DECEPTIVE TRADE PRACTICE ACT (Ark. Code Ann. § 4-88-101, *et seq.*)**

55. Plaintiff realleges and incorporates by reference each of the paragraphs above as if fully set forth herein.

56. The potentially hazardous or contaminated products are “goods” as defined under Ark. Code Ann. § 4-88-102(4).

57. Defendants are “person[s]” as defined under Ark. Code Ann. § 4-88-102(5).

58. The selling and distributing of the potentially hazardous or contaminated products are “services” as defined under Ark. Code Ann. § 4-88-102(7).

59. Defendants’ actions alleged herein constitute deceptive and unconscionable trade practices in violation of Ark. Code Ann. § 4-88-107 and § 4-88-108. Specifically, and without limitation, Defendants:

- a. Used deceptive and unconscionable trade practices consisting of knowingly making false representations as to the characteristics, uses, benefits, source, sponsorship, approval, or certification of the potentially hazardous or contaminated products or as to the potentially hazardous or contaminated products particular



standard, quality, or grade, in violation of Ark. Code Ann. § 4-88-107(a)(1);

- b. Used deceptive and unconscionable trade practices by knowingly taking advantage of consumers who were reasonably unable to protect their own interest due to ignorance, unawareness or lack of knowledge that the products were potentially hazardous or contaminated, in violation of Ark. Code Ann. § 4-88-107(a)(8)(B) and (E);
- c. Engaging, and continuing to engage, in other unconscionable, false or deceptive acts or practices in business, commerce or trade, in violation of Ark. Code Ann. § 4-88-107(a)(10);
- d. Acting, using, or employing, and continuing to act, use, or employ, deception, fraud, or false pretense in connection with the sale or advertisement of the potentially hazardous or contaminated products, in violation of Ark. Code Ann. § 4-88-108(1); and
- e. Concealing, suppressing, or omitting material facts in connection with the sale or distribution of the potentially hazardous or contaminated products with the intent that others, including Arkansas consumers, would rely upon that concealment, suppression or omission, in violation of Ark. Code Ann. § 4-88-108(2).

60. By omitting and concealing the risks and harms associated with the consumption, use, or handling of the potentially hazardous or contaminated products, which contain and cause or have a high risk of containing and causing Salmonella, other infectious diseases, or noninfectious diseases (due to exposure from the massive rodent infestation, pesticides during fumigation, or other unsanitary conditions), Defendants engaged in violations of the ADTPA through deceptive and unconscionable business practices, including:

- a. Representing that potentially hazardous or contaminated products had characteristics, uses, benefits, sources, sponsorships, approval, or certifications which they did not have;

- b. Representing that the potentially hazardous or contaminated products are of a particular standard, quality, or grade when they are not;
- c. Knowingly taking advantage of Arkansas consumers who were reasonably unable to protect their own interest because they were unaware, ignorant, or lacked knowledge that the products being sold were potentially hazardous or contaminated;
- d. Engaging in deceptive, fraudulent, or false acts or practices by failing to disclose and by actively concealing the defects in the potentially hazardous or contaminated products while advertising and selling the products to Arkansas consumers; and
- e. Concealing, suppressing, or omitting that the products were potentially hazardous or contaminated, which is a material fact Arkansas consumers relied upon when purchasing the products.

61. All of these actions by Defendants would be considered, and are, material to a reasonable consumer.

62. In the course of the Defendants' business, they willfully failed to disclose and actively concealed the dangerous risks posed by the potentially hazardous or contaminated products. By failing to disclose these risks and by actively concealing these risks, including products being exposed to massive and persistent numbers of rodents, pesticides from fumigation and other unsanitary conditions, Defendants engaged in unconscionable and deceptive business practices.

63. Defendants' unconscionable and deceptive acts and practices were likely to, and did in fact, deceive reasonable Arkansas consumers.

64. Defendants intentionally and knowingly misrepresented material facts regarding the potentially hazardous or contaminated products and owed a duty to Arkansas consumers to disclose the true nature of the products.

65. Defendants' deceptive trade practices, as outlined above, constitute distinct violations of the ADTPA.

66. Defendants knew or should have known that their conduct was unlawful. But for these deceptive representations and concealments of material facts, Arkansas consumers would not have expended millions of dollars on these potentially hazardous and contaminated products; as a direct and proximate cause of Defendants' deceptive conduct, Arkansas consumers have been injured.

67. Arkansas consumers suffered ascertainable losses caused by Defendants' false representations, fraud, deception, false pretenses, or concealment.

68. As a direct and proximate result of Defendants' violations, Arkansas consumers have suffered millions of dollars in ascertainable losses from the purchase of products that were contaminated, potentially hazardous, or harmful to consumers and had no commercial value, for which restitution is required, along with other relief under Ark. Code Ann. § 4-88-113(a)(2)(A).

69. As a direct and proximate result of Defendants' violations, the State is entitled to civil penalties of up to \$10,000 for each violation resulting from Defendants' unlawful conduct, along with investigation and litigation costs, expenses for expert witnesses, and attorney's fees and costs under Ark. Code Ann. § 4-88-113(a)(3) and (e).

70. The State seeks a permanent injunction against Defendants to prevent future deceptive and unconscionable trade practices under Ark. Code Ann. § 4-88-104 and § 4-88-113(a)(1).

71. The State seeks an order suspending or forfeiting Defendants' franchises, corporate charters, or other licenses, permits, or authorizations to do business in the State under Ark. Code Ann. § 4-88-113(b).

**COUNT II  
NEGLIGENCE AND GROSS NEGLIGENCE**

72. The State realleges and incorporates by reference each of the paragraphs above as if fully set forth herein.

73. Based upon Defendants' knowledge and foreseeability of the effects of their actions or inactions and control over the marketing, distributing, and selling of products as detailed throughout the Complaint and identified further herein, Defendants owe a duty to exercise a reasonable standard of care in the marketing, quality control, distributing, and selling of their products to Arkansas citizens.

74. Likewise, based upon Defendants' knowledge and foreseeability of the effects of their actions or inactions and control over the marketing, distributing, and selling of products as detailed throughout the Complaint and identified further herein, Defendants owe a duty to use ordinary care not to endanger public health, welfare, or safety.

75. Defendants further owed Plaintiff and Arkansas citizens duties to be forthright and honest regarding their products and to disclose the true risks associated with the use, consumption, or handling of their products. Defendants had control over their own actions to ensure these duties were performed. It is foreseeable that Arkansas citizens would be harmed and damaged by the failure of Defendants

to perform these duties, and Defendants had actual knowledge that the failure of these duties would cause harm to Plaintiff and Arkansas citizens.

76. Defendants breached their duty to Plaintiff and Arkansas citizens by marketing, distributing, and selling potentially hazardous and defective products (which contain or have a high risk of containing Salmonella or other infectious diseases) to Arkansas citizens; by failing to take even slight care to take those steps necessary to correct the massive rodent infestation or discontinue selling potentially hazardous and contaminated products to Arkansas citizens; and by failing to warn the State and its citizens of the potentially hazardous and defective condition of the products emanating from the West Memphis Distribution Center and sold at Defendants' retail locations.

77. Defendants' conduct fell below the reasonable standard of care. Their negligent acts included, but are not limited to:

- a. Not excluding rodents, birds, insects, and other vermin from their distribution center to protect against contamination;
- b. Not maintaining their distribution center in a clean and sanitary condition to protect against contamination;
- c. Not maintaining the grounds of their distribution center to protect against contamination;
- d. Not maintaining equipment in a clean and sanitary condition to protect against contamination;
- e. Not maintaining or following reasonable responsibilities applicable to quality control;
- f. Failing to inspect its facilities for safety, quality control, and health-related issues;

- g. Not maintaining written procedures applicable to quality control; and
- h. Not maintaining written procedures for the cleaning and maintenance of equipment used in the distribution of products.

78. Defendants were aware, or reasonably should have been aware, that the products they were selling to Arkansas consumers were potentially hazardous or harmful, did not perform their intended use, and were without any commercial value due to their contamination.

79. When Arkansas consumers purchased the products, they were unaware of their unsafe and dangerous nature and are without fault.

80. By engaging in grossly negligent and reckless conduct that created an unreasonable risk of harm to Arkansas consumers, Defendants failed to exercise reasonable care to prevent such harm, and Arkansas consumers sustained damages.

81. As a direct and proximate cause of the foregoing, Arkansas consumers have lost all value in the products which Defendants sold to them and suffered, and will continue to suffer, damages and economic loss.

82. Plaintiff is entitled to damages in an amount to be determined at trial.

**COUNT III  
STRICT LIABILITY IN TORT**

83. The State re-alleges and incorporates by reference each of the paragraphs above as if fully set forth herein.

84. At all times pertinent hereto, the Defendants engaged in, and continue to engage in, the business of selling or otherwise distributing consumer products from the West Memphis Distribution Center or from the Family Dollar retail locations in

the State of Arkansas. The products which the Defendants sold and distributed, and continue to sell and distribute, are adulterated and contaminated as a result of the massive rodent infestation at the West Memphis Distribution Center or from improper storage and lack of protection at the Family Dollar retail locations to which Defendants transport such products.

85. Due to the conditions at the West Memphis Distribution Center or the Family Dollar retail locations, which contaminated such products and gave rise to risks of contracting Salmonella or other infectious diseases, the products were, and continue to be, unreasonably dangerous in the condition in which they are supplied to the State and its consumers by the Defendants. The defective nature of the products posed an actual danger to the State and its citizens and exceeded any risk contemplated by the ordinary and reasonable buyer or consumer of such products. The products in issue were unreasonably dangerous at the time they left the hands of the Defendants as sellers, distributors, or suppliers of the same.

86. Due to the unreasonably dangerous condition of the products supplied by the Defendants, those products presented, and continue to present, an unreasonable risk of physical harm to the State and its consumers and economically damaged the State and its consumers by rendering the products which the Defendants sold worthless and without value.

87. Under the doctrine of strict liability in tort, as set forth in Ark. Code Ann. § 16-116-101(a), the Defendants are liable for creating the conditions which rendered their products unreasonably dangerous and for their failure to warn the

State and its citizens about the unreasonably dangerous condition of the products distributed from the West Memphis Distribution Center and sold at Family Dollar's retail locations.

88. As a direct and proximate cause of the foregoing, Arkansas citizens have lost all value in the products which Defendants sold to them and suffered, and will continue to suffer, damages and economic loss.

89. Plaintiff is entitled to damages in an amount to be determined at trial.

#### **COUNT IV UNJUST ENRICHMENT**

90. The State re-alleges and incorporates by reference each of the paragraphs above as if fully set forth herein.

91. Under Arkansas law, unjust enrichment can be found when a party has received something of value to which he was not entitled by operative act, intent, or situation to make the enrichment unjust and compensable.

92. Defendants willfully, intentionally, and wrongfully retained unjust benefits from Arkansas citizens by deceiving them into purchasing potentially hazardous or contaminated products that had no commercial value and therefore secured and retained a financial windfall.

93. It is inequitable and unconscionable for Defendants to retain these benefits.

94. Defendants knowingly accepted these unjust benefits.

95. Accordingly, Defendants should not be permitted to retain the proceeds from the benefits conferred upon them by Arkansas citizens. The State seeks



disgorgement of these ill-gotten gains earned as a result of the unlawful conduct alleged herein in an amount to be determined at trial.

**COUNT V  
CIVIL CONSPIRACY**

96. The State re-alleges and incorporates by reference each of the paragraphs above as if fully set forth herein.

97. Under Arkansas law, a civil conspiracy occurs when two or more persons have combined to accomplish a purpose that is unlawful or oppressive or to accomplish some purpose, not in itself unlawful, oppressive, or immoral, but by unlawful, oppressive, or immoral means, to injure another.

98. As described more fully herein, Defendants' conduct constitutes a civil conspiracy to violate the ADTPA, Ark. Code Ann. §§ 4-88-101 *et seq.* and Arkansas common law.

99. In particular, Defendants agreed to, coordinated their efforts, and carried out a shared plan and acts in furtherance of a common agreement to fraudulently and deceptively market, distribute, and sell potentially hazardous or contaminated products to Arkansas citizens through the concealment of an abominable rodent infestation, pesticide exposure and other unsanitary conditions.

100. Defendants made a conscious commitment to participate in the selling of these products to Arkansas citizens while knowing about the rodent infestation and other unsanitary conditions at the West Memphis Distribution Center.

101. Each Defendant shared a common purpose of fraudulently concealing the rodent infestation while selling potentially hazardous or contaminated products to unknowing Arkansas citizens all while profiting from the conspiracy.

102. Each individual defendant's actions herein violated Plaintiff's rights. Without the mutual understanding of each individual defendant the common and unlawful plan to market, distribute and sell hazardous, adulterated and contaminated products to Arkansas citizens could not have been accomplished. The motive behind entering into this conspiracy was to maximize profits for Family Dollar Stores and Dollar Tree at the expense of Plaintiff.

103. Defendants, Family Dollar Stores and Dollar Tree, engaged in the conspiracy, not by their mere knowledge of what was occurring at the West Memphis Distribution Center and its retail locations, but by implementing policies, procedures and business practices which knowingly caused the massive rat infestation and other unsanitary conditions at the West Memphis Distribution Center. Family Dollar and Dollar Tree conspired through policies, procedures, business practices and its own conduct by:

- (a) knowingly failing to allocate funds necessary to properly maintain the West Memphis Distribution Center;
- (b) knowingly failing to implement and maintain written procedures for safety, quality control, and health-related issues at the West Memphis Distribution Center and in its stores;
- (c) knowingly failing to implement and maintain written procedures for the cleaning and maintaining of equipment used at the West Memphis Distribution Center;

- (d) knowingly failing to inspect its facilities for safety, quality control and health related issues; and
- (e) knowingly pressuring subsidiaries and its employees to distribute and sell hazardous, adulterated and contaminated products.

104. This misconduct by Family Dollar Stores and Dollar Tree allowed them to maximize profits, while causing Arkansas citizens to purchase hazardous, adulterated and contaminated products.

105. Defendant, Family Dollar Services, LLC engaged in the conspiracy, not by its mere knowledge of what was occurring at Family Dollar Stores and Dollar Tree, but by implementing Family Dollar Stores and Dollar Tree's policies, procedures and business practices at the West Memphis Distribution Center, which knowingly caused the massive rat infestation and other unsanitary conditions. Family Dollar Services, LLC conspired with Family Dollar and Dollar Tree to implement their policies, procedures and business practices, along with its own policies, procedures, business practices and conduct by knowingly:

- (a) failing to implement and maintain written procedures for safety, quality control, and health-related issues at the West Memphis Distribution Center;
- (b) failing to implement and maintain written procedures for the cleaning and maintaining of equipment used at the West Memphis Distribution Center;
- (c) failing to inspect the West Memphis Distribution Center for safety, quality control and health related issues;
- (d) pressuring employees to distribute hazardous, adulterated and contaminated products;

- (e) failing to prevent rodents, birds, insects and other vermin from entering the distribution center;
- (f) failing to maintain the distribution center in a clean and sanitary condition to protect against contamination;
- (g) failing to maintain the grounds of the distribution center to protect against contamination;
- (h) failing to maintain equipment in a clean and sanitary condition to protect against contamination;
- (i) failing to maintain or follow reasonable responsibilities applicable to quality control; and
- (j) failing to maintain written procedures for the cleaning and maintenance of equipment used in the distribution of products.

106. This misconduct by Family Dollar Services, LLC allowed it to maximize profits, while causing Arkansas citizens to purchase hazardous, adulterated and contaminated products.

107. Defendant, Family Dollar Stores of Arkansas, LLC engaged in the conspiracy, not by its mere knowledge of what was occurring at Family Dollar Stores, Dollar Tree, and Family Dollar Services, LLC, but by implementing Family Dollar Stores and Dollar Tree's policies, procedures and business practices at its retail locations, which knowingly caused the selling of hazardous, adulterated and contaminated product to Arkansas citizens. Family Dollar Stores of Arkansas, LLC conspired with Family Dollar Stores, Dollar Tree, and Family Dollar Services, LLC, to implement their policies, procedures and business practices, along with its own policies, procedures, business practices and conduct by knowingly:

- (a) selling hazardous, adulterated and contaminated products at its retail locations;
- (b) failing to implement and maintain written procedures for safety, quality control, and health-related issues at its retail locations;
- (c) failing to inspect its products for safety, quality control and health related issues;
- (d) pressuring employees to sell hazardous, adulterated and contaminated products;
- (e) failing to maintain its retail locations in clean and sanitary conditions to protect against contamination; and
- (f) failing to maintain or follow reasonable responsibilities applicable to quality control.

108. This misconduct by Family Dollar Stores of Arkansas, LLC allowed it to maximize profits, while causing Arkansas citizens to purchase hazardous, adulterated and contaminated products.

109. As a direct and proximate result of Defendants' civil conspiracy as referenced herein, Arkansas citizens suffered ascertainable losses in an amount to be determined at trial.

### **PRAYER FOR RELIEF**

**WHEREFORE**, the State of Arkansas, *ex rel.* Leslie Rutledge, Attorney General, prays for entry of judgment against the Defendants, individually, and jointly and severally, for all the relief requested herein and to which the State may otherwise be entitled, specifically, but without limitation, to-wit:

- A. The Court enter an order and judgment against Defendants and in favor of the State for each violation alleged in this Complaint;

- B. Find that Defendants' acts and practices alleged herein are violations of the ADTPA, Ark. Code Ann. §§ 4-88-101, *et seq.* and that Defendants' conduct breached and violated the statutory and common law causes of action alleged herein;
- C. Find that Defendants violated Ark. Code Ann. § 4-88-107(a)(1); § 4-88-107(a)(8)(B) and (E); § 4-88-107(a)(10); § 4-88-108(1); and § 4-88-108(2), as alleged herein, and that each instance of selling a potentially hazardous or contaminated product constitutes a separate violation;
- D. Issue a permanent injunction prohibiting Defendants from engaging in any violations of the ADTPA, particularly the unlawful acts and practices described herein, pursuant to Ark. Code Ann. § 4-88-104 and §4-88-113(a)(1);
- E. Require Defendants to pay all consumer restitution that may be owed to Arkansas consumers affected by Defendants' unlawful acts and practices, pursuant to Ark. Code Ann. § 4-88-113(a)(2)(A);
- F. Impose civil penalties to be paid to the State by Defendants in the amount of up to \$10,000 for each violation of the ADTPA proved at a trial of this matter, pursuant to Ark. Code Ann. § 4-88-113(a)(3);
- G. Suspend or revoke Defendants' authorization to do business in the State of Arkansas, pursuant to Ark. Code Ann. § 4-88-113(b);
- H. Require Defendants to pay all of the State's costs in this investigation and litigation, including, but not limited to, expert witness fees,

attorney's fees and costs, pursuant to Ark. Code Ann. § 4-88-113(e) and other state laws;

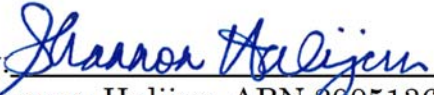
- I. Be awarded restitution, damages, disgorgement, penalties and all other legal and equitable monetary remedies available under the state laws set forth in this Complaint and the general equitable powers of this Court in an amount according to proof;
- J. Be awarded punitive damages as Defendants are liable for compensatory damages and Defendants knew or ought to have known, in light of the surrounding circumstances, that their conduct would naturally and probably result in injury or damage and that Defendants continued the conduct with malice or reckless disregard of the consequences, pursuant to Ark. Code Ann. § 16-55-206;
- K. Be awarded pre-and post-judgment interest as provided by law, and that such interest be awarded at the highest legal rate from and after the date of service of the Complaint; and
- L. Be awarded such other, further and different relief as the case may require and the Court may deem just and proper under the circumstances.

**DEMAND FOR JURY TRIAL**

The State demands a trial by jury on all causes of action so triable.

Respectfully submitted,

**LESLIE RUTLEDGE**  
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